

JOURNAL OF THE SENATE

NINETIETH SESSION

SEVENTEENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Friday, February 6, 2015

The Senate convened at 1:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Rev. John Armstrong, followed by the Pledge of Allegiance led by Senate pages Brinley Olson and Marie Zander.

Roll Call: All members present except Sen. Omdahl who was excused.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the sixteenth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Corey Brown, Chair

Which motion prevailed.

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1 Also MR. PRESIDENT:

2 The Committee on Local Government respectfully reports that it has had under
3 consideration HB 1071 and 1104 and returns the same with the recommendation that said bills
4 do pass and be placed on the consent calendar.

5 Respectfully submitted,
6 Bob Ewing, Chair

7 Also MR. PRESIDENT:

8 The Committee on Transportation respectfully reports that it has had under consideration
9 SB 107 and returns the same with the recommendation that said bill do pass and be placed on
10 the consent calendar.

11 Also MR. PRESIDENT:

12 The Committee on Transportation respectfully reports that it has had under consideration
13 SB 160 which was tabled.

14 Respectfully submitted,
15 Mike Vehle, Chair

16 Also MR. PRESIDENT:

17 The Committee on Appropriations respectfully reports that it has had under consideration
18 SB 110 and 172 and returns the same with the recommendation that said bills do pass.

19 Also MR. PRESIDENT:

20 The Committee on Appropriations respectfully reports that it has had under consideration
21 SB 91 and returns the same with the recommendation that said bill be amended as follows:

22 91ga

23 On page 1, line 4, of the printed bill, delete “two hundred” and insert “one dollar (\$1)”.

24 On page 1, line 5, delete “thousand dollars (\$200,000)”.

25 And that as so amended said bill do pass.

1 Also MR. PRESIDENT:

2 The Committee on Appropriations respectfully reports that it has had under consideration
3 SB 92 and returns the same with the recommendation that said bill be amended as follows:

4 92ga

5 On page 1, line 4, of the printed bill, delete “two hundred” and insert “(\$1)”.

6 On page 1, line 5, delete “thousand dollars (\$200,000)”.

7 And that as so amended said bill do pass.

8 Respectfully submitted,
9 Deb Peters, Chair

10 Also MR. PRESIDENT:

11 The Committee on Taxation respectfully reports that it has had under consideration SB 136
12 and returns the same with the recommendation that said bill be amended as follows:

13 136sa

14 On the printed bill, delete everything after the enacting clause and insert:

15 "Section 1. That § 10-45-1.16 be amended to read as follows:

16 10-45-1.16. Gross receipts, as defined in § 10-45-1.14, do not include:

17 (1) Discounts, including cash, term, or coupons that are not reimbursed by a third party
18 that are allowed by a retailer and taken by a purchaser on a sale;

19 (2) Interest, financing, and carrying charges from credit extended on the sale of tangible
20 personal property, any product transferred electronically, or services, if the amount
21 is separately stated on the invoice, bill of sale, or similar document given to the
22 purchaser; ~~and~~

23 (3) Any taxes legally imposed directly on the consumer that are separately stated on the
24 invoice, bill of sale, or similar document given to the purchaser; and

25 (4) Any taxes imposed by a municipality pursuant to §§ 49-34A-45 and 49-34A-46."

1 136fta

2 On page 1, line 1, of the printed bill, delete "municipal sales and use" and insert "certain
3 municipal".

4 On page 1, line 2, delete "of" and insert "for customers served by".

5 And that as so amended said bill do pass.

6 Respectfully submitted,
7 Jeff Monroe, Chair

8 **MESSAGES FROM THE HOUSE**

9 MR. PRESIDENT:

10 I have the honor to transmit herewith HB 1083, 1096, 1101, 1102, 1124, 1130, 1132, 1134,
11 1150, and 1151 which have passed the House and your favorable consideration is respectfully
12 requested.

13 Also MR. PRESIDENT:

14 I have the honor to inform your honorable body that the House has concurred in Senate
15 amendments to HB 1026.

16 Also MR. PRESIDENT:

17 I have the honor to return herewith SB 12 which has passed the House without change.

18 Respectfully,
19 Arlene Kvislen, Chief Clerk

20 **MOTIONS AND RESOLUTIONS**

21 SENATE PAGE RESOLUTION 2 Introduced by: Senators Bradford; Brown; Buhl
22 O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield, Brock; Hagger, Jenna; Haverly;
23 Heineman, Phyllis; Heinert; Holien; Hunhoff, Bernie; Jensen, Phil; Lederman; Monroe;
24 Novstrup, David; Olson; Omdahl; Otten, Ernie; Parsley; Peters; Peterson, Jim; Rampelberg;
25 Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; White

26 A RESOLUTION, Expressing the appreciation and gratitude of the Senate of the Ninetieth
27 Legislature of the State of South Dakota to Catie Bok, Clair Deuter, Amanda Halsey, Jason

1 Hanson, Connor Hickman, Rachel Johnson, Sentel Johnson, Seth Newton, Brinley Olson,
2 Emily Schmitz, Shyanne Siedel, Veronica Thomas, Katie Winckler, Marie Zander

3 WHEREAS, the above named served loyally as pages for the Senate of the Ninetieth
4 Legislative Session; and

5 WHEREAS, the members of the Ninetieth Senate express their most sincere appreciation
6 to these young people for their service to the state; and

7 WHEREAS, the members extend to these young people their wishes for every success in
8 life:

9 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Ninetieth Legislature of
10 the State of South Dakota, that a personal copy of this resolution be duly certified and furnished
11 to each page on this last day of service.

12 Sen. Holien moved that Senate Page Resolution 2 be adopted.

13 The question being on Sen. Holien's motion that Senate Page Resolution 2 be adopted.

14 And the roll being called:

15 Yeas 34, Nays 0, Excused 1, Absent 0

16 Yeas:

17 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
18 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
19 Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim);
20 Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
21 White

22 Excused:

23 Omdahl

24 So the motion having received an affirmative vote of a majority of the members-elect, the
25 President declared the motion carried.

26 **CONSIDERATION OF REPORTS OF COMMITTEES**

27 Sen. Rave moved that the reports of the Standing Committees on

28 Agriculture and Natural Resources on HB 1055 as found on page 298 of the Senate
29 Journal; also

30 Commerce and Energy on SB 118 as found on page 300 of the Senate Journal

- 1 Commerce and Energy on SB 120 as found on page 298 of the Senate Journal; also
2 Education on SB 86 as found on page 296 of the Senate Journal; also
3 Retirement Laws on SB 168 as found on page 296 of the Senate Journal be adopted.
4 Which motion prevailed.

5 **FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS**

- 6 The President declared that SB 164 was withdrawn at the request of the prime sponsor
7 pursuant to Joint Rule 6B-1.1.

- 8 The following bills were read on February 4, 2015, and today the President Pro tempore
9 assigned these bills to committee.

- 10 SB 192 was referred to the Committee on Judiciary.

- 11 SB 193 was referred to the Committee on Appropriations.

12 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

- 13 HB 1083: FOR AN ACT ENTITLED, An Act to require reimbursement to certain entities
14 for fire suppression and extinguishment costs.

- 15 Was read the first time and referred to the Committee on Local Government.

- 16 HB 1096: FOR AN ACT ENTITLED, An Act to revise certain procedures for issuing a
17 permit to carry a concealed pistol.

- 18 Was read the first time and referred to the Committee on Judiciary.

- 19 HB 1101: FOR AN ACT ENTITLED, An Act to ensure local control over curriculum and
20 methods of instruction.

- 21 Was read the first time and referred to the Committee on Education.

1 HB 1102: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
2 regulation of licensing massage therapists.

3 Was read the first time and referred to the Committee on Health and Human Services.

4 HB 1124: FOR AN ACT ENTITLED, An Act to authorize motor vehicles to exceed the
5 posted speed limit under certain conditions.

6 Was read the first time and referred to the Committee on Transportation.

7 HB 1130: FOR AN ACT ENTITLED, An Act to prohibit an abortion provider from
8 accepting payment for an abortion prior to the end of the required informed consent period.

9 Was read the first time and referred to the Committee on Health and Human Services.

10 HB 1132: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
11 titling of motor vehicles, boats, mobile homes, and manufactured homes and the issuance of
12 temporary permits by licensed dealers.

13 Was read the first time and referred to the Committee on Commerce and Energy.

14 HB 1134: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the
15 expungement of arrest records.

16 Was read the first time and referred to the Committee on Judiciary.

17 HB 1150: FOR AN ACT ENTITLED, An Act to provide for the annual adjustment of the
18 salary of legislators.

19 Was read the first time and referred to the Committee on Local Government.

20 HB 1151: FOR AN ACT ENTITLED, An Act to improve public safety through
21 confidential stress management services for emergency service providers.

22 Was read the first time and referred to the Committee on Health and Human Services.

23 **SECOND READING OF CONSENT EXECUTIVE APPOINTMENTS**

24 The Senate proceeded to the consideration of the executive appointment of Patricia White
25 Horse Carda of Charles Mix County, Wagner, South Dakota, to the Board of Pardons and
26 Paroles.

1 The question being "Does the Senate advise and consent to the executive appointment of
2 Patricia White Horse Carda pursuant to the executive message as found on page 45 of the Senate
3 Journal?"

4 And the roll being called:

5 Yeas 34, Nays 0, Excused 1, Absent 0

6 Yeas:

7 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
8 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
9 Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim);
10 Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
11 White

12 Excused:

13 Omdahl

14 So the question having received an affirmative vote of a majority of the members-elect, the
15 President declared the appointment confirmed.

16 **SECOND READING OF CONSENT CALENDAR BILLS AND RESOLUTIONS**

17 Sen. Peters requested that SB 124 be removed from the Consent Calendar.

18 SB 125: FOR AN ACT ENTITLED, An Act to revise the minimum suspension
19 requirements for students participating in extracurricular activities.

20 Was read the second time.

21 The question being "Shall SB 125 pass?"

22 And the roll being called:

23 Yeas 34, Nays 0, Excused 1, Absent 0

24 Yeas:

25 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
26 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
27 Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim);
28 Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
29 White

1 Excused:
2 Omdahl

3 So the bill having received an affirmative vote of a majority of the members-elect, the
4 President declared the bill passed and the title was agreed to.

5 SB 97: FOR AN ACT ENTITLED, An Act to revise the allowable penalties for a person
6 admitted to drug court.

7 Was read the second time.

8 The question being "Shall SB 97 pass?"

9 And the roll being called:

10 Yeas 34, Nays 0, Excused 1, Absent 0

11 Yeas:
12 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
13 Hagggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
14 Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim);
15 Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
16 White

17 Excused:
18 Omdahl

19 So the bill having received an affirmative vote of a majority of the members-elect, the
20 President declared the bill passed and the title was agreed to.

21 HB 1007: FOR AN ACT ENTITLED, An Act to revise and update certain provisions
22 relating to the South Dakota Retirement System.

23 Was read the second time.

24 The question being "Shall HB 1007 pass?"

25 And the roll being called:

26 Yeas 34, Nays 0, Excused 1, Absent 0

1 Yeas:

2 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
3 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
4 Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim);
5 Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
6 White

7 Excused:

8 Omdahl

9 So the bill having received an affirmative vote of a majority of the members-elect, the
10 President declared the bill passed and the title was agreed to.

11 HB 1008: FOR AN ACT ENTITLED, An Act to provide for a consistent refund
12 methodology for members of the South Dakota Retirement System and their beneficiaries.

13 Was read the second time.

14 The question being "Shall HB 1008 pass?"

15 And the roll being called:

16 Yeas 34, Nays 0, Excused 1, Absent 0

17 Yeas:

18 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
19 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
20 Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim);
21 Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
22 White

23 Excused:

24 Omdahl

25 So the bill having received an affirmative vote of a majority of the members-elect, the
26 President declared the bill passed and the title was agreed to.

27 HB 1009: FOR AN ACT ENTITLED, An Act to limit the recovery of certain
28 overpayments made by the South Dakota Retirement System.

29 Was read the second time.

30 The question being "Shall HB 1009 pass?"

1 And the roll being called:

2 Yeas 34, Nays 0, Excused 1, Absent 0

3 Yeas:

4 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
5 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
6 Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim);
7 Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
8 White

9 Excused:

10 Omdahl

11 So the bill having received an affirmative vote of a majority of the members-elect, the
12 President declared the bill passed and the title was agreed to.

13 HB 1010: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to
14 disability and surviving spouse benefits for members of the South Dakota Retirement System.

15 Was read the second time.

16 The question being "Shall HB 1010 pass?"

17 And the roll being called:

18 Yeas 34, Nays 0, Excused 1, Absent 0

19 Yeas:

20 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
21 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
22 Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim);
23 Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
24 White

25 Excused:

26 Omdahl

27 So the bill having received an affirmative vote of a majority of the members-elect, the
28 President declared the bill passed and the title was agreed to.

29 HB 1011: FOR AN ACT ENTITLED, An Act to provide for automatic increases in the
30 accounts of automatically-enrolled participants of the deferred compensation plan of the South
31 Dakota Retirement System.

1 Was read the second time.

2 The question being "Shall HB 1011 pass?"

3 And the roll being called:

4 Yeas 34, Nays 0, Excused 1, Absent 0

5 Yeas:

6 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
7 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
8 Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim);
9 Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
10 White

11 Excused:

12 Omdahl

13 So the bill having received an affirmative vote of a majority of the members-elect, the
14 President declared the bill passed and the title was agreed to.

15 HB 1053: FOR AN ACT ENTITLED, An Act to repeal and revise certain outdated
16 provisions related to the Department of Game, Fish and Parks.

17 Was read the second time.

18 The question being "Shall HB 1053 pass?"

19 And the roll being called:

20 Yeas 34, Nays 0, Excused 1, Absent 0

21 Yeas:

22 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
23 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
24 Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim);
25 Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
26 White

27 Excused:

28 Omdahl

29 So the bill having received an affirmative vote of a majority of the members-elect, the
30 President declared the bill passed and the title was agreed to.

1 HB 1054: FOR AN ACT ENTITLED, An Act to revise certain record keeping and
2 inspection requirements for fur dealers.

3 Was read the second time.

4 The question being "Shall HB 1054 pass?"

5 And the roll being called:

6 Yeas 34, Nays 0, Excused 1, Absent 0

7 Yeas:

8 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
9 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
10 Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim);
11 Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
12 White

13 Excused:

14 Omdahl

15 So the bill having received an affirmative vote of a majority of the members-elect, the
16 President declared the bill passed and the title was agreed to.

17 SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS

18 Sen. Rave moved that SB 64, 135, 98, 108, and 100 and HB 1058, 1059, 1063, 1043, 1057,
19 1051, and 1013 be deferred to Monday, February 9, the 18th legislative day.

20 Which motion prevailed.

21 SIGNING OF BILLS

22 The President publicly read the title to

23 SB 12: FOR AN ACT ENTITLED, An Act to allow the spouse of an active duty military
24 person to qualify as a resident for a temporary permit to carry a concealed pistol.

25 HB 1014: FOR AN ACT ENTITLED, An Act to repeal certain obsolete and unnecessary
26 statutes relating to the Department of Environment and Natural Resources.

27 HB 1061: FOR AN ACT ENTITLED, An Act to repeal an outdated and obsolete provision
28 related to transferring cases from inferior courts to circuit courts.

1 HB 1062: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to jury
2 selection.

3 HB 1065: FOR AN ACT ENTITLED, An Act to revise certain provisions related to voting
4 trusts and agreements.

5 And signed the same in the presence of the Senate.

6 **COMMEMORATION**

7 SC 8 Introduced by: Senators Tidemann, Buhl O'Donnell, Hunhoff (Bernie), Soholt, and
8 Sutton and Representatives Bartling, Duvall, Hawley, Kaiser, Novstrup (Al), Schoenbeck, and
9 Solum

10 A LEGISLATIVE COMMEMORATION, Honoring the 2015 South Dakota Boys & Girls
11 Clubs of America's Youth of the Year finalists.

12 WHEREAS, Morgan Kalhoff, Boys & Girls Club of Aberdeen; Mackenzie Sarratt, Boys &
13 Girls Club of the Capital Area; Dylan Borgstrom, Boys & Girls Club of Brookings, Inc.; Kaleb
14 Hartley, Boys & Girls Clubs of the Missouri River Area; Shaheem Rhodes, Boys & Girls Club
15 of the Sioux Empire; and Ashley Berkey, Boys & Girls Club of Watertown, belong to a Boys
16 & Girls Club in South Dakota and have been selected to represent their respective club in the
17 state Youth of the Year Program; and

18 WHEREAS, the Youth of the Year Program is the Boys & Girls Club of the America's
19 premier youth recognition program for club members which promotes and celebrates service to
20 the club, community, and family; academic performance; moral character; life goals; and poise
21 and public speaking ability; and

22 WHEREAS, Disney, Toyota, the University of Phoenix, and the Taco Bell Foundation for
23 Teens generously sponsor the Boys & Girls Clubs of America's Youth of the Year program; and

24 WHEREAS, one of these club members will be selected to represent South Dakota in the
25 national Youth of the Year program; and

26 WHEREAS, these club members have demonstrated exemplary accomplishments in the
27 areas of leadership, community service, character development, academics, fitness, poise, and
28 public speaking:

29 NOW, THEREFORE, BE IT COMMEMORATED, by the Ninetieth Legislature of the State
30 of South Dakota, that Morgan Kalhoff, Boys & Girls Club of Aberdeen; Mackenzie Sarratt,
31 Boys & Girls Club of the Capital Area; Dylan Borgstrom, Boys & Girls Club of Brookings, Inc.;
32 Kaleb Hartley, Boys & Girls Clubs of the Missouri River Area; Shaheem Rhodes, Boys & Girls
33 Club of the Sioux Empire; and Ashley Berkey, Boys & Girls Club of Watertown, are
34 commended for their outstanding achievements, and that appreciation is extended to Boys &
35 Girls Club of America, Disney, Toyota, the University of Phoenix, and the Taco Bell

1 Foundation for Teens for their work in promoting and celebrating these achievements through
2 the Youth of the Year Program.

3 Sen. Sutton moved that the Senate do now adjourn, which motion prevailed and at
4 1:35 p.m. the Senate adjourned.

5 Kay Johnson, Secretary